IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 23RD OCTOBER 2007 / 1ST KARTHIKA 1929

Bail Appl..No. 6411 of 2007()

CMP.8672/2007 of J.M.F.C.-I,KOTTARAKKARA
.....

(CR.NO.63/2007 OF EZHKONE EXCISE RANGE)

PETITIONERS/ACCUSED 1:

ANANDAVALLY, AGED 49, W/O.SIVADASAN,
SIVAMANDIRAM VEEDU, KARIKKAL MURI,
PUTHOOR VILLAGE, KOTTARAKKARA.

BY ADV. SRI.RAJA VIJAYARAGHAVAN

RESPONDENT: COMPLAINANT:

STATE OF KERALA, THROUGH THE EXCISE
INSPECTOR, EZHUKONE EXCISE RANGE
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 23/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

R.BASANT, J

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B.A.No. 6411 of 2007

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Dated this the 23rd day of October, 2007

ORDER

Application for regular bail . The petitioner, a woman, is the 1st accused. Altogether there are two accused persons. They face allegations under the Kerala Abkari Act. They were found to keep in their possession 1510 litres of wash in a residential premises which originally belonged to the petitioner herein. They were arrested on 18.10.07. They continue in custody from that date.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The petitioner had already transferred the said building to the son and daughter in law of the petitioner. They in turn leased out the same to some other persons. The petitioner is being falsely implicated as accused in the said case. The petitioner may, in these circumstances, be enlarged on bail, prays the learned counsel for the petitioner.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the petitioner keeps possession of the building, notwithstanding the transfer made to son and daughter in law of the petitioner. The petitioner was physically present and had kept possession of the contraband article. Contemporaneous

documents, which were prefaced reveal complicity of the petitioner. The petitioner, in these circumstances may not be enlarged on bail now, submits the learned Public Prosecutor.

4. In the wake of the opposition by the learned Public Prosecutor, regular bail can be granted to the petitioner only if this court is in a position to entertain the twin satisfactions under Section 41A of the Kerala Abkari Act. I do not find any circumstances which can persuade this court to entertain either of those two satisfactions at the moment. I am satisfied that this petition deserves to be dismissed now.

In the result, this petition is dismissed. I may hasten to observe that the petitioner shall be at liberty to move this court or the courts below for bail at a later stage of the investigation, not at any rate, prior to 6.11.07 The police shall, in the meantime, make every endeavour to complete the investigation.

(R.BASANT, JUDGE)

sj